

REMARKS

Claims 8-15 are all of the pending claims, with claim 8 being the sole independent claim.

The Examiner indicates that the originally presented invention (as defined by claims 1-7, now canceled) has been *constructively elected* since Applicants have received an action on the merits for the originally presented invention, and since claims 8-15 (newly added via the June 1, 2004 Amendment) are independent and distinct from the invention originally claimed. According to the Examiner, the inventions are distinct because claim 8 “*does not read on*” originally presented claim 1. Applicants respectfully disagree.

The Examiner’s position is incorrect because the specification discloses an example, non-limiting embodiment of a single invention (and not two separate inventions) to which originally presented claims 1-7 *and* newly added claims 8-15 are directed. Indeed, claims 8-12 substantially correspond to original claims 1-5 and claims 13-15 include the subject matter of claim 12. Furthermore, Applicants agree with the Examiner that new independent claim 8 “*does not read on*” original independent claim 1. But this is simply not pertinent. Otherwise, any amendment (e.g., a change in terminology) would result in a constructive election.

In this case, claims 8-15 were added to clarify the subject matter regarded as the invention and to address the various issues raised in the March 1, 2004 Office Action. But new claims 8-15 do *not* constitute a shift to claiming another invention. The Examiner’s assertions to the contrary are simply incorrect.

For at least the reasons stated above, Applicants respectfully request the Examiner to examine claims 8-15 in the instant application.

CONCLUSION

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By Ray Heflin
Ray Heflin, Reg. No. 41,060

P.O. Box 8910
Reston, VA 20195
(703) 668-8000

DJD/HRH:ewd